



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AURELIUS CAPITAL MASTER, LTD., :
AURELIUS CAPITAL PARTNERS, LP, FIR :
TREE VALUE MASTER FUND, L.P., FIR :
TREE CAPITAL OPPORTUNITY MASTER :
FUND, L.P., and FIR TREE MORTGAGE :
OPPORTUNITY MASTER FUND, L.P., :
individually, and on behalf of a class of :
similarly situated persons pursuant to Fed. R. :
Civ. P. Rule 23, :
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Plaintiffs,

—against—

MBIA INC., MBIA INSURANCE :
CORPORATION, and MBIA INSURANCE :
CORPORATION OF ILLINOIS, :
----- X

Defendants.

No. 09-Civ-02242 (RJS)

~~PROPOSED~~ AMENDED CASE
MANAGEMENT PLAN AND
SCHEDULING ORDER

RICHARD J. SULLIVAN, District Judge:

Pursuant to Rules 16-26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management Plan and Scheduling Order:

1. All parties do not consent to disposition of this case by a Magistrate Judge, pursuant to 28 U.S.C. § 636(c).
2. This case is to be tried to a jury.
3. Additional parties may be joined until a responsive pleading is filed or with leave of the Court.
4. Amended pleadings may be filed until a responsive pleading is filed or with leave of the Court.
5. Initial disclosures pursuant to Rule 26(a)(1) shall be completed no later than March 22, 2010.
6. All *fact* discovery, except for responses to Requests to Admit, is to be completed no later than August 15, 2011.

7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided that the parties meet the deadline for completing fact discovery set forth in ¶ 6 above.
- a. Initial requests for production of documents in addition to the requests for production served by Plaintiffs on May 19, 2009 shall be served by the earlier of March 30 or 15 days after entry of this Order.
 - b. All documents responsive to initial requests (including documents the Court ordered produced by Order of August 13, 2010) shall be produced on a rolling basis in accordance with interim schedules agreed to by the parties, with production to be complete by November 1, 2010.¹
 - c. Initial interrogatories shall be served by the earlier of March 30 or 15 days after entry of this Order.
 - d. Plaintiffs' motion for class certification shall be filed on or before February 28, 2011. The briefing schedule and expert discovery schedule, if any, shall be further discussed by the parties and set by subsequent Court order.
 - e. Depositions shall be completed by August 15, 2011.
 - i. Absent an agreement between the parties or an order from the Court, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. There is no priority in deposition by reason of a party's status as a plaintiff or a defendant.
 - iii. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
 - f. Requests to Admit shall be served no later than August 15, 2011.
8. All *expert* disclosures, including reports, production of underlying documents, and depositions shall be completed pursuant to the following deadlines.
- a. Service of Plaintiffs' expert reports: September 16, 2011
 - b. Depositions of Plaintiffs' experts completed: October 14, 2011

¹ The parties are meeting and conferring with respect to the impact of the Court's August 13, 2010 Order on Plaintiffs' production of documents and expect to reach agreement regarding the date by which Plaintiffs will produce documents as a result of that Order.

- c. Service of Defendants' expert reports: October 28, 2011
 - d. Depositions of Defendants' experts completed: November 15, 2011
 - e. Service of Plaintiffs' expert rebuttal reports: December 5, 2011
 - f. Depositions of Plaintiffs' rebuttal experts completed: December 22, 2011
9. All discovery shall be completed no later than December 22, 2011.
10. The Court will conduct a post-discovery conference on January 13, 2012, at 10:00 a.m.
11. If either party contemplates a motion, the post-discovery conference will function as a pre-motion conference. Pre-motion letters are to be submitted by December 22, 2011. Pursuant to Rule 2.A of the Court's Individual Practices, responses to pre-motion letters are to be submitted within three business days from the date of service of the initial pre-motion letter. Pre-motion letters and responses shall be submitted to the chambers' email address at sullivanysdchambers@nysd.uscourts.gov.
12. If neither party contemplates a dispositive motion, the post-discovery conference will function as a pre-trial conference at which a trial date will be set.
13. Counsel for the parties will confer with respect to an appropriate mediator for settlement discussions.
14. Parties have conferred and their present best estimate of the length of trial is three weeks.

SO ORDERED.

DATED: Nov. 5, 2010
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE